

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8609 of 1991  
with  
SPECIAL CIVIL APPLICATION No 8613 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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RH TUNDIA

Versus

STATE OF GUJARAT

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Appearance:

None present for Petitioner

MR DA BAMBHANIA for Respondent No. 1, 2

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 14/08/97

ORAL JUDGEMENT

1. As in both these petitions, common question of facts and law arise, the same are being taken together for hearing and decided by this common order.

2. Rule. The counsel for respondents waive service of rule. The matters were called out for hearing in the first round then in the second round and lastly, in the

third round but none put appearance for the petitioners. Perused the special civil application and heard the learned counsel for the respondents.

3. The petitioners in both these special civil applications are working on the post of Deputy Mamlatdar. Having apprehension of the reversion from the post of Dy. Mamlatdar to that of Clerk they filed this special civil application and prayer has been made, which reads as under:

(A) this Honourable Court be pleased to issue a Writ of Mandamus or in the nature of Mandamus or any other appropriate writ, direction or Order quashing and set aside the Order passed by the Respondents to revert the Petitioner from the post of Deputy Mamlatdar to that of Clerk.

(B) be pleased to issue such other and further orders, as may deem fit, just and proper in the facts and circumstances of the case.

(C) be pleased to stay the operation, implementation and execution of the Order of reversion that may be passed by the Respondents and directing the Respondents from reverting and to allow the Petitioner to perform his duties as Deputy Mamlatdar at the place of his posting.

(D) be pleased to allow the cost of this petition.

On record, the petitioners have not filed the copy of the order of reversion. This Court has protected the petitioners by grant of interim relief and that interim relief continues till date.

4. Reply to these special civil applications have not been filed.

5. In the absence of the order of reversion, I fail to see how any writ of the nature as prayed for can be issued but the fact remains that this Court has granted the interim relief and even if some order of reversion is made that has not been given effect to. The petitioners were given the promotion on the post of Dy. Mamlatdar purely on adhoc basis and they are continuing as such for all these years. In view of the decision of this Court given in Special Civil Applications No. 101/87, 8766/90 and 7808/90 decided on 24th March, 1992 seniority list of feeder cadres for promotion to the post of Dy. Mamlatdar

has been prepared by the respondent but so far the regular promotions on the basis of seniority position as reflecting therein have not been made.

6. The counsel for the respondents submitted that at present the respondents are not considering for reversion of the petitioners from their adhoc continuation on the post of Dy. Mamlatdar and in case, they have to be reverted from their continuation on adhoc basis on the post of Dy. Mamlatdar then it shall be done only after giving a notice and an opportunity of hearing to the petitioners. However, the counsel for the respondents submit that in case the reversion of the petitioners become necessary for the reason that they have not been adjudged suitable for regular promotion on the post of Dy. Mamlatdar by D.P.C. then in that eventuality this procedure is not required to be followed.

7. The petitioners are continuing on the post of Dy. Mamlatdar only on adhoc basis and as such, in case they have not been adjudged suitable for regular promotion on the post of Dy. Mamlatdar then their reversion will be consequential of their non-selection and in that case, notice or opportunity of hearing may not be required. This position is made clear.

8. Now I may refer to the claim made by the petitioners for their protection against their reversion from the post of Dy. Mamlatdar which they are holding on adhoc basis and in view of the statement made by the counsel for the respondents, this grievance does not survive.

9. In view of the statement made by the respondents' counsel, the grievance made by the petitioners in these special civil applications does not survive and the same are dismissed as having become infructuous. Rule discharged. Interim relief granted by this Court stands vacated subject to the statement made by the respondents' counsel aforesaid.

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